

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alexander Lai	Team: Team # 1	CCRB Case #: 200919709	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 12/29/2009 6:20 PM	Location of Incident: Staten Island Ferry	Precinct: 120	18 Mo. SOL 6/29/2011	EO SOL 6/29/2011	
Date/Time CV Reported Wed, 12/30/2009 10:24 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 12/30/2009 10:24 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Salvator Improta	02551	945421	120 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jayson Valentin	19310	946094	120 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Salvator Improta	Abuse: PO Salvator Improta questioned § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On December 30, 2009, § 87(2)(b) filed a complaint with the CCRB via telephone (encl. 3a).

On December 29, 2009, at approximately 6:20 pm, § 87(2)(b) was a passenger on the Staten Island Ferry en route to Manhattan. PO Salvator Improta and PO Jayson Valentin of the 120th Precinct approached § 87(2)(b) while on the ferry. The following allegation resulted from the officers' actions:

- **Allegation A – Abuse:** PO Salvator Improta questioned § 87(2)(b) § 87(2)(g)

This case was eligible for mediation and § 87(2)(b) accepted mediation. However, § 87(2)(b) later expressed his intention to file a civil suit, making his complaint ineligible for mediation.

Results of Investigation

Civilian Statement(s)

Complainant: § 87(2)(b)

- § 87(2)(b) born § 87(2)(b) is a black male who stands 5'9", weighs 190 pounds, and has black hair and brown eyes. § 87(2)(b)

§ 87(2)(b)'s Testimony

§ 87(2)(b) was interviewed at the CCRB on January 11, 2010. § 87(2)(b) brought handwritten notes that he referred to in the interview. His statement was consistent with his intake statement (encl. 4b-a).

On December 29, 2009 at approximately 6:20 pm, § 87(2)(b) was on the Staten Island Ferry en route to Manhattan, about midway through the trip. He was wearing a white du-rag with a black army hat, a New Orleans Saints jersey, and a black leather Avirex jacket. § 87(2)(b) who was alone, had ordered food on the ferry twice and sat down in his seat located next to the windows inside the ferry. He was sitting by himself and there were several other individuals sitting across from him. He also observed several uniformed police officers walk past him while he was sitting, but did not pay enough attention to them to remember their physical descriptions.

§ 87(2)(b) was not sure how much time had passed when he overheard some sort of noise or commotion in the front of the ferry. He saw at least four uniformed officers, who appeared to be the same officers that he saw walking past him earlier, "joking around." The officers approached him. One officer told him to take his hands out of his jacket pockets and to unzip his jacket. His jacket was probably completely zippered up, but he was uncertain.

He described the officer he was speaking with as a white or Hispanic male with black hair that was not long, standing about 5'9", weighing about 160 pounds ("skinny"). He noted that the officer could possibly be younger than himself. The investigation identified this officer as PO Salvator Improta. He did not recall any other distinguishing features and he could not describe other officers' physical appearances except that they were in uniform and had service weapons

§ 87(2)(b) complied with PO Improta's request to remove his hands from his pockets and unzipped his jacket to reveal his shirt. This interaction was estimated to be about two minutes. The officers walked away without saying anything but returned one minute later and PO Improta asked for identification. § 87(2)(b) gave PO Improta his ID. PO Improta wrote down § 87(2)(b)'s name and date of birth and relayed that information through a walkie-talkie. § 87(2)(b) was still sitting in his seat. PO Improta explained that they received a description of a man with a white du-rag and a yellow shirt and that someone was robbed. This statement led him to believe that that was the reason for the commotion he overheard earlier on the ferry. The officer apologized and they left. This interaction was estimated to be approximately ten minutes. § 87(2)(b) only spoke with one officer during the entire exchange, and was never touched by the officers.

NYPD Statement(s):

Subject Officer: PO SALVATOR IMPROTA

- PO Improta, born § 87(2)(b) [REDACTED]
- On the date of the incident, he was assigned to the Staten Island Ferry, partnered with PO Jayson Valentin, on foot, in uniform, and his tour was at 1:30 pm to 10:05 pm.

Computerized and Handwritten Stop, Question and Frisk Report

The Stop, Question, and Frisk Report of the incident, written by PO Improta, indicate that on the date and time of the incident, PO Improta stopped § 87(2)(b) 1 Richmond Terrace, the place of the stop, was further described as the Staten Island Ferry. § 87(2)(b) was suspected of grand larceny auto because it was an ongoing investigation where he fit the description, the time of day/week corresponded to the criminal activity, and he made furtive movements and evasive, false or inconsistent responses to officer's questions (encl. 5a-b).

PO Improta's Memo Book

PO Improta's memo book entry relating to this incident was as follows: At 6:00 pm, one male was stopped for GLA (grand larceny auto) at 1 Richmond Terrace, and at 6:10 pm a 10-93Q (Stop, Question, and Frisk Report) was written (encl. 5c-e).

PO Improta's Testimony

PO Improta was interviewed at the CCRB on February 26, 2010 (encl. 5e-f).

On the date of the incident, PO Improta and PO Valentin were on the Staten Island Ferry. At approximately 6:00 pm, the ferry was on Staten Island. He observed two white female officers and one white male Lieutenant, all uniformed, from the Staten Island Task Force and one plainclothes detective from the Auto Crime Division enter the ferry. The detective, who identified himself as Det. Peter McCarthy, told PO Improta that they received an anonymous tip that a male with a white du-rag had stolen a car and was on the ferry. That group of officers went to look for the individual on the ferry separately while PO Improta and PO Valentin looked on the ferry together.

PO Improta observed § 87(2)(b) wearing a white du-rag sitting down and looking at him. He did not recall what other articles of clothing § 87(2)(b) was wearing other than the white du-rag. PO Improta and PO Valentin approached § 87(2)(b) and PO Improta explained that they received a tip that an individual wearing a white du-rag had stolen a car and that he fit the description. PO Improta asked § 87(2)(b) where he was going, and because of his demeanor and response, determined that he was not the individual that the officers were looking for. He could not recall what § 87(2)(b) said, but noted he not say much during their interaction that last approximately three to five minutes. PO Improta asked for § 87(2)(b)'s ID, which was supplied, in order to fill out a Stop, Question, and Frisk report. He confirmed that the officers from the Staten Island Task Force and the plainclothes detective were not present during his interaction with § 87(2)(b) and he did not call them to his location. PO Improta did not recall PO Valentin speaking to § 87(2)(b) at any point. The officers left and did not speak to § 87(2)(b) for the duration of the ferry's trip to Manhattan.

NYPD Document(s)

Sprint Index

The 120th Precinct sprint index on December 29, 2009 between 5:00pm and 9:00pm produced negative results relating to this incident (encl. 6a-d).

Roll Call

The 120th Precinct Tour 3 roll call indicates that PO Improta and PO Valentin were assigned to the Ferry between 1:30 pm to 10:05 pm (encl. 6e).

Request for Warrant/License Check

The warrant check for § 87(2)(b) displaying his date of birth and social security number, produced no hits (encl. 6d).

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of March 9, 2010, with regard to the incident.

Civilian Criminal History

- As of March 9, 2010, Office of Court Administration records reveal no criminal convictions for § 87(2)(b)

Civilian CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 2a).

Subject Officer CCRB History

- PO Improta has been a member of the service for two years and there are no substantiated CCRB allegations against him (encl. 1a).

Conclusion

Identification of Subject Officer(s)

§ 87(2)(b) stated that he only spoke to one officer during the incident, and PO Improta confirmed interacting with § 87(2)(b) and recalled that he was the only officer that spoke to him at the time.

Investigative Findings and Recommendations

Allegation A – Abuse (PO Improta questioned § 87(2)(b))

It is uncontested that § 87(2)(b) was approached by PO Improta while they were on the Staten Island Ferry on the date and time of the incident. Prior to their interaction, PO Improta was informed that a male wearing a white du-rag had stolen a vehicle and was present on the ferry. As PO Improta approached § 87(2)(b) he informed him of the recent theft, and that § 87(2)(b) fit the description of the suspect. § 87(2)(b) also provided his identification for PO Improta upon request. The officers subsequently left without further incident with § 87(2)(b).

The common-law right to inquiry is allowed when an officer has “a founded suspicion that criminal activity is afoot.” People v. DeBour, 20 N.Y.2d 210, 223 (1976). Such suspicion requires a “present indication of criminality based on observable conduct or reliable hearsay information.” People v. Boulware, 130 A.D.2d 370 (New York, 1st Dept. 1987). Many descriptions received by the police are often incorrect or imprecise, but are sufficient to justify an inquiry. People v. Gaines, 159 A.D.2d 175 (New York, 1st Dept. 1990). An officer is permitted to interfere with an individual “to the extent necessary to gain explanatory information, but short of a forcible seizure.” Debour, 223.

Here, PO Improta and PO Valentin received a tip from a plainclothes detective that a man with a white du-rag who stole a vehicle was present on the Staten Island Ferry. § 87(2)(b), § 87(2)(g)

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§ 87(2)(b), § 87(2)(g)

Team: _____

Investigator: _____ :
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date